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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ O.M.P.(MISC.)(COMM.) 83/2018

ZTE TELECOM INDIA PRIVATE
LIMITED

..... Decree Holder

Through: Mr Sumeet Lall and Mr Sidhant
Kapoor, Advocates.

versus

OM TELECOM LOGISTICS PRIVATE
LIMITED

..... Judgement Debtor

Through: Mr Narendera M. Sharma and Ms
Prachi Gupta, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
% **14.05.2018**

IA No.6642/2018

1. Allowed, subject to all just exceptions.

O.M.P.(MISC.)(COMM.) 83/2018

2. The petitioner has filed the present petition under Section 29A of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying as under:-

- a. Allow for the Ld. Arbitral Tribunal to resume its mandate;
- b. Allow for the mandate of the Ld. Arbitral Tribunal to be extended in order to ensure the efficacious adjudication of the present Claim and
- c. Any other and further reliefs or as this Hon 'ble Court may deem just and proper."

3. It is stated that the Arbitral Tribunal comprising of three former Judges of the Supreme Court of India was constituted and the Arbitral Tribunal entered reference on 10.11.2016. During the period of one year, the Arbitral Tribunal held over five hearings.

4. The Arbitral Tribunal has declined to proceed any further in view of the respondent not agreeing to extend the time for making the award after 09.11.2017.

5. Since the learned counsel for the respondent was not readily willing to accept the request made by the petitioner, this Court has pointedly asked the learned counsel for the respondent whether he desired the mandate of the Arbitral Tribunal to be terminated which undoubtedly result a new Arbitral Tribunal would be constituted. He stated that the respondent would have no objection if the mandate of the Arbitral Tribunal is extended provided certain consequent directions to award costs are also passed in favour of the respondents as, according to him, the delay in proceedings is attributable to the petitioner.

6. The learned counsel for the petitioner stoutly disputes the aforesaid contention. He also states that the respondent's objection under Section 16 had been heard and an order had been passed on 17.07.2017. Thereafter, the respondent filed yet another application under Section 16 of the Act and this was the principal reason for the delay in the proceedings. The learned counsel for the respondent states that the same was necessitated in view of the decision of the Arbitral Tribunal rendered on 17.07.2017.

7. Be that as it may, it is apparent that the Arbitral Tribunal has proceeded with due despatch and much time has been consumed to address the rival issues raised by the parties.

8. Insofar as the request for costs is concerned, the same is contentious issue and this Court has no reason to believe that the Arbitral Tribunal would not consider the requests of either party for award of costs at the stage of passing the final award.
9. In view of the above, the time for making the award is extended for a further period of one year from today.
10. The petition is disposed of in the above terms.

VIBHU BAKHRU, J

MAY 14, 2018
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